



U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street, 3rd floor
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January 25, 2018

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: *Bonner v. Department of Defense et al.*,
No. 17 Civ. 9378 (VEC)

Dear Judge Caproni:

This Office represents defendants the Department of Defense (“DOD”), the Central Intelligence Agency (“CIA”), and the Federal Bureau of Investigation (“FBI”) in the above-referenced Freedom of Information Act (“FOIA”) matter. In advance of the initial pretrial conference scheduled for January 26, 2018, and pursuant to the parties’ joint pre-conference letter dated January 18, 2018 (ECF No. 24), we write respectfully on behalf of all parties to propose the following agreed-upon schedule.

By February 16, 2018:

- DOD will complete processing of item 1 in plaintiff’s FOIA request to DOD (“[a] facsimile or accurate transcript, in the original Arabic, of [Abu] Zubaydah’s diary”), and produce non-exempt portions, if any.
- CIA will complete processing of category 3 in plaintiff’s FOIA request to the CIA (“[t]he eight drawings referred to in . . . a letter which the Justice Department sent to Brent Michum, a lawyer for [Abu Zubaydah]”), and produce non-exempt portions, if any.

By March 9, 2018:

- DOD will complete its search for items 2 (viewable copy of “[t]he video...the transcript of which” has previously been made public) and 3 (“[t]he email from Zubaydah to Sheikh Ali Al Khoudeir regarding the September 11th attacks” referred to in a Combatant Status Review Tribunal proceeding) in plaintiff’s

FOIA request to DOD, complete processing of any records located, and produce non-exempt portions, if any.

- CIA will produce to plaintiff those documents identified as responsive to plaintiff's FOIA request that have been processed and produced in the FOIA cases identified in footnote 1 of the parties' January 18, 2018, joint letter. To the extent that, prior to March 9, 2018, the CIA produces records in those other cases that are also responsive to plaintiff's FOIA request, it will expeditiously produce them to plaintiff. Additionally, after March 9, 2018, as rolling productions continue in those other cases, CIA is prepared to make productions to plaintiff on dates to be proposed as part of the March 16, 2018, status report described below.
- CIA will process and produce any additional non-exempt records responsive to category 2 of plaintiff's FOIA request to the CIA (certain cables identified in the "SSCI Study").

By March 16, 2018:

- The parties will submit a joint status report to the Court which contains a report on the status of the parties' discussions regarding narrowing of plaintiff's FOIA request to the FBI, as well as a proposed schedule for further proceedings, including:
 - A schedule for processing and production of any additional records responsive to category 1 of plaintiff's request to the CIA; and
 - A schedule for processing and production of responsive records identified from the approximately 134 "hits" identified in the FBI's initial search, which may include not only individual documents, but also main files and sub files. The FBI is still in the process of locating the records and files corresponding to these "hits," which will then need to be reviewed for responsiveness to determine the actual volume of responsive records.

We thank the Court for its consideration of this letter.

Respectfully submitted,

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